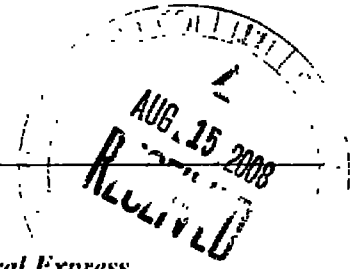




August 12, 2008



Mr. Vernon A. Williams, Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Suite 700  
Washington, D.C. 20423

*Via Federal Express*

RECORDATION NO. 27603 FILED

AUG 15 '08

3-55 PM

Re: Trans-Global Solutions, Inc.

**SURFACE TRANSPORTATION BOARD**

Dear Mr. Williams:

I have enclosed an original and one copy/counterpart of the document described below, to be recorded pursuant to Section 11301 of Title 49 of the United States Code.

This document is a Security Agreement dated August 12, 2008, from Trans-Global Solutions, Inc. to International Bank of Commerce.

The names and addresses of the parties under the Security Agreement are as follows:

1. The Debtor is Trans-Global Solutions, Inc., a Texas corporation, 11811 I-10 East, Suite 630 Houston, Texas 77029.
2. The Secured Party is International Bank of Commerce, 5615 Kirby Drive, Houston, Texas 77005.

The equipment covered by the Security Agreement includes the ~~locomotives~~ <sup>locomotives</sup> listed on Exhibit A attached to such Security Agreement.

A fee of \$41.00 is enclosed. Please return the original and any extra copies not needed by the Board for recordation to Craig A. Bunk at International Bank of Commerce, 5615 Kirby Drive, Houston, Texas 77005.

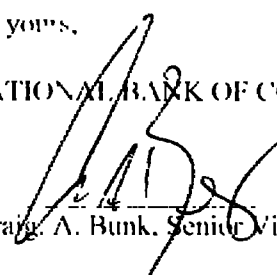
A short summary of the document to appear in the index follows:

Security Agreement dated August 12, 2008, between Trans-Global Solutions, Inc., a Texas corporation, 11811 I-10 East, Suite 630, Houston, Texas 77029, as Debtor, and International Bank of Commerce, 5615 Kirby Drive, Houston, Texas 77005, as Secured Party, and covering, among other things, the locomotives of Debtor listed on Exhibit A thereto.

Very truly yours,

INTERNATIONAL BANK OF COMMERCE

By:

  
Craig A. Bunk, Senior Vice President

Enclosure

AUG 15 '08

3-55 PM

SURFACE TRANSPORTATION BOARD



International Bank of Commerce

# SECURITY AGREEMENT

Date	Reference Number	Officer	Initial
8/12/2008	1110091214	Craig A. Bunk	

Pledgor(s): Trans-Global Solutions, Inc.

Lender: International Bank of Commerce

The undersigned Pledgor, owner of Collateral (as hereinafter defined), whether one or more, and International Bank of Commerce, 5615 Kirby Drive, Houston, Texas 77005, (hereinafter called "Lender") enter into this Security Agreement and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, agree as follows:

## SECTION I: Creation of Security Interest.

Pledgor hereby grants to Lender a first and exclusive lien and security interest in all of the personal property of Pledgor, wherever located, now owned or hereafter acquired, including, but not limited to, the property described in Section II of this Security Agreement to secure payment and performance of the indebtedness (described in Section III below). All such personal property is referred to herein as the "Collateral."

## SECTION II: Description of Collateral.

1. The security interest is granted in, among other personal property, the following Collateral:

a Describe the Collateral and, as applicable, check boxes and provide information as indicated below.

Any and all (i) presently owned and hereafter acquired Inventory of Debtor, (ii) accounts of Debtor including, without limitation, all accounts receivable, goods, contract rights, instruments, chattel paper, electronic chattel paper, all returned or repossessed goods, all books, records, computer tapes, programs and ledger books arising therefrom or relating thereto, now owned or hereafter acquired of whatever kind or nature and wherever located, (iii) equipment of Debtor and the accessions and appurtenances thereto now owned or hereafter acquired of whatever kind or nature and wherever located, (iv) intellectual property now owned or hereafter acquired of whatever kind or nature and wherever located, (v) general intangibles and/or payment intangibles of Debtor, (vi) accounts, accounts receivable, goods, contract rights and choses in action of whatever kind or nature arising out of the sale, disposition, taking or destruction of any of the foregoing, (vii) Insurance policies relating in whole or in part to any of the foregoing, (viii) substitutions for and replacements of and all additions and accessions to any of the foregoing, and (ix) rights, title and interest of Debtor in and to all books and records relating in whole or in part to any of the foregoing.

See Insert No. 1 on attached Addendum.

(X) Check if list of equipment is attached.

See attached Exhibit "A" for a list of certain equipment.

b 1 ☐ The above goods are to become fixtures on: (describe real estate; attach additional sheet if needed)

2 ☐ The above timber is standing on: (describe real estate; attach additional sheet if needed)

3 ☐ The above minerals or the like (including oil and gas) or accounts will be financed at the well head or mine head of the well or mine located on: (describe real estate; attach additional sheet if needed)

c If subsection b.1, b.2, or b.3 of this Section II.1 is checked, this security agreement is to be filed for record in the real estate records. (The description of the real estate must be sufficiently specific as to give constructive notice of a mortgage on the realty).

☐ The Pledgor does not have an interest of record; the name of a record owner of the real estate is:

d All substitutes and replacements for, accessions, attachments, and other additions to, and tools, parts, and equipment used in connection with, the Collateral described in Section II.1.a. above, and any increase and the unborn young of animals and poultry.

e All property similar to the Collateral described in Section II.1.a. above, hereafter acquired by Pledgor.

f All proceeds, products, and profits of the Collateral described in Section II.1.a. are included. Coverage of products and proceeds for financing statement purposes is not to be construed as giving Pledgor any additional rights with respect to the Collateral, and Pledgor is not authorized to sell, lease, or otherwise transfer, furnish under contracts of service, manufacture, process, or assemble the Collateral, except in accordance with the provisions of this Security Agreement. Any additional sheets describing the Collateral, the real estate, or other matters are incorporated in and made a part of this instrument.

g Location where Collateral is to be kept: \_\_\_\_\_

2. Classify the Collateral described in Section II.1.a. under one or more of the following classifications as set out in the Uniform Commercial Code of the state where Lender is located (together with the Official Comments thereto referred to herein as the "Code"):

- |  |   |
|--|---|
| <input type="checkbox"/> Consumer Goods                      | <input type="checkbox"/> Farm Products                                    |
| <input checked="" type="checkbox"/> Equipment (business use) | <input checked="" type="checkbox"/> General Intangibles                   |
| <input type="checkbox"/> Equipment (farm use)                | <input checked="" type="checkbox"/> Inventory                             |
| <input type="checkbox"/> Investment Property                 | <input type="checkbox"/> Chattel Paper                                    |
| <input type="checkbox"/> Instruments                         | <input type="checkbox"/> Letter-Of-Credit Rights                          |
| <input checked="" type="checkbox"/> Accounts                 | <input type="checkbox"/> Supporting Obligations                           |
| <input checked="" type="checkbox"/> Deposit Accounts         | <input type="checkbox"/> Liens on Government Assets                       |
| <input type="checkbox"/> Commercial Tort Claims              | <input type="checkbox"/> Sales of Payment Intangibles or Promissory Notes |
| <input type="checkbox"/> Agricultural Liens                  |   |

And to the extent not listed above as original Collateral all proceeds and products of the foregoing.

Any term used in the Code and not defined in this Security Agreement has the meaning given to the term in the Code.

3. ☒ If this block is checked, this is a purchase money security interest, and Pledgor will use funds advanced to purchase the Collateral described in Section II.1.a., or Lender may disburse funds direct to the seller of such Collateral, and to purchase insurance on the Collateral. To the extent Pledgor uses the indebtedness to purchase Collateral, Pledgor's repayment of the indebtedness shall apply on a "first-in-first-out" basis, so that the portion of the indebtedness used to purchase a particular item of Collateral shall be paid in the chronological order the Pledgor purchased the Collateral.
4. If any of the Collateral is accounts, give the location of the office where the records concerning them are kept (if other than Pledgor's address set forth on page 1 hereof):
5. "Commercial Tort Claims", a subcategory of General Intangibles, means the Pledgor's claim for \_\_\_\_\_ against \_\_\_\_\_.

### SECTION III: INDEBTEDNESS

This pledge, assignment and grant is made to Lender to secure the prompt and unconditional payment of, and the first and exclusive security interest granted hereby to Lender secures the payment and performance of, the following (collectively, the "indebtedness").

Any and all indebtedness, liabilities and/or obligations of Pledgor, or any of the undersigned if more than one, and/or Borrower (as hereinafter defined) to Lender, jointly and/or severally, and in any capacity, whether as borrower, guarantor, or otherwise, now or hereafter owing, created and/or arising, and regardless of how evidenced or arising, as to outstanding and unpaid principal, accrued and unpaid interest, accrued and unpaid late charges, attorneys' fees, collection costs, and all other sums owing by Pledgor, or any of the undersigned if more than one, and/or Borrower, including but not limited to the indebtedness evidenced by the following described promissory note (the "Note"):

Real Estate Lien Note/Promissory Note dated the \_\_\_\_ day of August, 2008, in the original principal amount of Seven Hundred Thousand Dollars and No Cents (\$700,000.00), executed by Trans-Global Solutions, Inc. and delivered to Lender, together with all renewals, extensions, modifications, refinancing, consolidations and substitutions thereof.

and further without limitation to:

- A. any and all commercial loan or indebtedness;
- B. any and all credit card or other consumer type of loan;
- C. any and all indebtedness relating to checking or savings accounts (overdrafts, fees, etc.);
- D. any and all expenses incurred in the protection or maintenance of the Collateral securing any of the liabilities, loans, and obligations described in this Section III;
- E. any and all expenses incurred in the collection of any indebtedness and/or obligation described in this Section III;
- F. any and all letters of credit and/or indebtedness arising out of, or advanced to pay, letters of credit transactions;
- G. any and all indebtedness, however, evidenced, whether by promissory note, bookkeeping entry, electronic transfer, checks, drafts or other items, or by any other manner or form;
- H. any and all other indebtedness of Pledgor and/or Borrower to any financial institution affiliated with International BancShares Corporation, jointly and/or severally, and in any capacity, whether as borrower, guarantor, or otherwise, now or hereafter owing, created and/or arising, and regardless of how evidenced or arising;
- I. any and all extensions, modifications, substitutions and/or renewals of any of the indebtedness described in this Section III;
- J. any and all costs incurred by Lender to obtain, preserve and enforce this Security Agreement, collect the indebtedness described in this Section III, and maintain and preserve the Collateral, including without limitation, all taxes, assessments, attorneys' fees and legal expenses, and expenses of sale;
- K. the sale by Pledgor and/or Borrower and the purchase by Lender of Accounts (as defined in the Code);
- L. the sale by Pledgor and/or Borrower and the purchase by Lender of Chattel Paper (as defined in the Code);
- M. the sale by Pledgor and/or Borrower and the purchase by Lender of Payment Intangibles (as defined in the

- Code);
- N. the sale by Pledgor and/or Borrower and the purchase by Lender of Promissory Notes (as defined in the Code); and
  - O. any of the foregoing that arises after the filing of a petition in bankruptcy by or against Pledgor or Borrower under the United States Bankruptcy Code, even if the obligations do not accrue because of the automatic stay under Section 362 of the United States Bankruptcy Code or otherwise.

As used herein, the term "Borrower" means Trans-Global Solutions, Inc. (or any of them, if more than one), and the term "Loan Documents" means, collectively, the Note and any other document or instrument executed by Pledgor or Borrower or any guarantor of the Note and delivered to Lender in connection with the Note.

To the extent allowed by law, for purposes hereof it is intended that the Indebtedness include all classes of indebtedness, whether evidenced by notes, open accounts, advances for letter of credit obligations, overdrafts, or otherwise, and whether direct, indirect or contingent, regardless of class, form or purpose and including but not limited to, loans for consumer, agricultural, business or personal purposes.

The foregoing shall under no circumstances be limited to the existence or non-existence of collateral for such Indebtedness, or the type of collateral covered thereby. The Indebtedness does not include amounts owed pursuant to homestead, homestead equity and/or home equity line of credit loans.

**Notices:** Notices and other communications pertaining to this Agreement shall be in writing and shall be effective only if delivered in person or (i) if to Lender, mailed via U.S. certified mail, return receipt requested, postage prepaid, to International Bank of Commerce at Lender's address as set out on page 1 hereof (Attn: Jay Rogers), and (ii) if to Pledgor, sent via United States Mail, duly stamped and addressed to Pledgor at the address of Pledgor set forth below; provided, however, actual notice to Pledgor, however given or received, shall always be effective when given or received. Except as otherwise required by law, any notice given or made pursuant hereto shall be deemed effectively given on the date of personal delivery or, if mailed, on the date such notice is deposited in the U.S. Mail, if, with respect to Lender, actually received. Any party hereto may change its address for notice in the manner set forth in this paragraph.

#### **SECTION IV: PERFECTION OF SECURITY INTERESTS.**

##### **1. Filing Of Financing Statements.**

- (i) Pledgor hereby authorizes Lender to file one or more Financing Statements, and any amendments thereto or continuations thereof (collectively referred to as the "Financing Statements", whether one or more) describing the Collateral, as Lender deems necessary, in its sole discretion, to evidence and/or perfect its rights under this Security Agreement.
- (ii) Pledgor hereby authorizes Lender to file Financing Statements describing any agricultural liens or other statutory liens held by Lender.
- (iii) Lender may obtain, prior or subsequent to the filing of any Financing Statements an official report from the Secretary of State of each necessary (in Lender's opinion) State (the "SOS Reports") indicating that Lender's security interest is prior to all other security interests or other interests reflected in the report.

##### **2. Possession.**

- (i) Pledgor shall have possession of the Collateral, except where expressly otherwise provided in this Security Agreement or where Lender chooses to perfect its security interest by possession only, or in addition to the filing of Financing Statements.
- (ii) Where Collateral is in the possession of a third party, Pledgor will join with Lender in notifying the third party of Lender's security interest and obtaining a Control Agreement from the third party acknowledging that it is holding the Collateral for the benefit of Lender to the extent necessary to perfect Lender's security interest in the Collateral.

**3. Control Agreements.** Pledgor will cooperate with Lender in obtaining a Control Agreement in form and substance satisfactory to Lender with respect to Collateral consisting of:

- (i) Deposit Accounts,
- (ii) Investment Property,
- (iii) Letter-Of-Credit Rights, and
- (iv) Electronic Chattel Paper.

**4. Marking of Chattel Paper.** Pledgor will not create any Chattel Paper without placing a legend on the Chattel Paper acceptable to Lender indicating that Lender has a security interest in the Chattel Paper.

#### **SECTION V: Pledgor's Representations, Warranties, and Agreements.**

##### **A. General Representations and Warranties.**

Pledgor represents, warrants and agrees that:

- (1) Pledgor has full power and authority to enter into this Security Agreement; this Security Agreement has been duly authorized, executed and delivered by Pledgor and constitutes the valid and binding obligation of Pledgor enforceable in accordance with its terms. No consent of third parties, license, authorization or filing with any governmental authority is required to be obtained or performed in connection with the execution, delivery, and performance of this Security Agreement.
- (2) All information supplied and statements made by Pledgor in any financial, credit or accounting statement or application for credit prior to, contemporaneously with or subsequent to the execution of this Security Agreement are and shall be true, correct, complete, valid, and genuine.
- (3) Pledgor owns, or will use the proceeds of any loans by Lender to become the owner of, the Collateral free, from any set-off, claim, restriction, lien, security interest or encumbrance except this security interest and liens

for ad valorem taxes not yet due

- (4) No Financing Statements covering the Collateral or its proceeds are on file in any public office and Pledgor will not permit any Financing Statements covering any of the Collateral or the proceeds thereof to hereafter be on file in any public office except as may be filed pursuant to this Security Agreement.
- (5) Pledgor shall provide and shall have Borrower and/or Guarantor provide, to Lender, upon Lender's request, (i) financial information, including but not limited to a balance sheet, income statement, statement of cash flow, and such other financial information as may be requested by Lender; (ii) an appraisal of the Collateral; (iii) tax receipts; (iv) evidence of insurance, and (v) any other information required by Lender in connection with the Indebtedness or the Collateral.
- (6) Pledgor will not use the Collateral or permit the Collateral to be used in violation of any statute, ordinance or other law or inconsistently with the terms of any policy of insurance thereon; and Pledgor will permit Lender, and its agents, representatives, and employees to examine the Collateral at all reasonable times, and for such purpose Lender may enter upon or into any premises where the Collateral may be located without being guilty of and/or held liable for trespass. Pledgor will furnish to Lender upon request all pertinent information regarding the Collateral.
- (7) The Collateral shall remain in Pledgor's possession or control at all times at Pledgor's risk of loss unless Lender has taken possession of the Collateral, and shall be kept at the location set forth in Section II.1.g. hereof where Lender may inspect it at any time, except for its temporary removal in connection with its ordinary use or unless Pledgor notifies Lender in writing and Lender consents in writing in advance of its removal to another location.
- (8) Pledgor shall pay prior to delinquency all taxes, charges, liens and assessments against the Collateral, and upon Pledgor's failure to do so, Lender at its option, but without any obligation, may pay any of them, and shall be the sole judge of the legality or validity thereof and the amount necessary to discharge the same. Such payment shall become part of the Indebtedness secured by this Security Agreement and shall bear interest and be paid to Lender by Pledgor in accordance with Section V.A.(9) hereof.
- (9) Pledgor shall maintain at all times property insurance upon all Collateral with coverage for perils as set forth under the ISO Causes of Loss - Special Form (formerly "all-risk"), with coverage extended for the perils of flood if the Collateral is situated in a flood-prone area, in an amount equal to the full insurable replacement cost. Such insurance policies shall contain such terms, be in a form, for a period and be written by companies satisfactory to Lender. If available, federal flood insurance is also required if the Collateral is situated in a flood-prone area. The policy shall also contain a standard mortgagee's endorsement providing for payment of any loss to Lender. All policies of insurance shall provide that Lender shall receive thirty (30) days prior written notice of any material changes in coverage or cancellation thereof.

Evidence of coverage shall be provided by Pledgor to Lender concurrently with the execution of this Security Agreement and subsequently upon Lender's request and must be a true and complete copy of the original policy and loss payable clause. Certificates or letters of coverage will not be accepted. Evidence of renewal of each policy shall be furnished at least five (5) days prior to the expiration of each policy.

Lender is authorized to act as attorney-in-fact for Pledgor in obtaining, adjusting, settling, and canceling such insurance and endorsing any drafts drawn by insurers of the Collateral. Lender may apply any and/or all proceeds of such insurance, which may be received by it in payment of the Indebtedness, whether the Indebtedness is then due or not. Lender may, in its sole discretion, purchase single interest insurance (which provides only protection for Lender) with respect to the Collateral and the premium(s) advanced therefor shall become part of the Indebtedness secured hereby as provided below.

Lender, in its sole discretion and without obligation on Lender to do so, may advance and pay sums on behalf and for the benefit of Pledgor for costs necessary for the protection and preservation of the Collateral and other costs that may be appropriate, in Lender's sole discretion, including but not limited to insurance premiums, (including single interest insurance described above), taxes and other charges described in Section V.A.(8) hereof, and attorney's fees and legal costs and expenses paid in any suit affecting the Collateral. Any such sums which may be so paid by Lender shall become part of the Indebtedness secured by this Security Agreement, shall bear interest from the dates of such payments until paid (i) at the loan contract interest rate applied to the unmatured principal balance of the Note, as such rate may change from time to time, or (ii) if the Note is not described in Section III hereof, at the maximum lawful rate, and shall be due, together with any accrued and unpaid interest thereon, upon demand by Lender.

- (10) Pledgor shall, at its own expense, do, make, procure, execute and deliver all acts, things, writings and assurances as Lender may at any time request to protect, assure or enforce Lender's interests, rights and remedies created by, provided in or emanating from this Security Agreement.
- (11) Pledgor shall not lend, rent, lease or otherwise dispose of the Collateral or any interest therein except as authorized in this Security Agreement or in writing by Lender, and Pledgor shall keep the Collateral, including the proceeds thereof, free from unpaid charges, including taxes, and from liens, encumbrances and security interests other than that of Lender.
- (12) Pledgor shall execute alone or with Lender any document or procure any document, and pay all connected costs, necessary to protect the security interest under this Security Agreement against the rights or interests of third persons. Pledgor shall pay the costs of lien searches, SOS Reports and governmental certificates and all filing fees, continuation fees, and fees for certificates of good standing and other information required by Lender.
- (13) Pledgor shall at all times keep the Collateral and its proceeds separate and distinct from other property of Pledgor and shall keep accurate and complete records of the Collateral and its proceeds. Pledgor shall preserve the Collateral and pay all costs necessary to do so, including, but not limited to feed, rent, storage costs, and expenses of sale.

- (14) If Lender should at any time be of the opinion that the Collateral has declined or may decline in value, or is otherwise insufficient to adequately secure the Indebtedness, or should Lender deem itself insecure as to payment of the Indebtedness, then Lender may call for additional property to be pledged and/or covered by this Security Agreement satisfactory to Lender.
- (15) If any Collateral or proceeds thereof include obligations of third parties to Pledgor, the transactions creating those obligations will conform in all respects to applicable state and federal consumer credit and/or protection laws.
- (16) In the event Pledgor or any other person or persons seeks to enjoin Lender from taking any action in connection with the Indebtedness or the enforcement of Lender's rights in the Collateral, Pledgor hereby agrees to give written notice to the President of Lender, at the address of Lender set forth in the first paragraph of this Security Agreement, or such other person or address as Lender may designate in writing to Pledgor, two business days prior to seeking any such injunctive relief.
- (17) As additional security for the Indebtedness, Pledgor hereby assigns, pledges and grants to Lender a security interest, lien and contractual right of set-off in and to all of the Pledgor's money, credits, accounts, securities, certificates and/or other property now in, or at any time hereafter coming within, the custody or control of Lender or any member Bank or branch Bank of International BancShares Corporation, whether held in a general or special account or deposit, or for safekeeping or otherwise. Every such security interest, lien and right of set-off may be exercised without demand or notice to Pledgor. No security interest, lien or right of set-off shall be deemed to have been waived by any act or conduct on the part of Lender, or any failure to exercise such right of set-off or to enforce such security interest or lien, or by any delay in so doing. Every right of set-off, security interest and lien shall continue in full force and effect until such right of set-off, security interest or lien is specifically waived or released by an instrument in writing executed by Lender. The foregoing is in addition to and not in lieu of any rights of set-off allowed by law. This subsection (17) does not apply to homestead, homestead equity, and/or homestead equity line of credit loans.
- (18) Pledgor shall assist Lender in complying with the Federal Assignment of Claims Act (and any successor statutes) and similar laws to enable Lender to become an assignee under such Act and otherwise comply with such laws. Pledgor shall preserve the liability of all account debtors, obligors, and secondary parties whose obligations are part of the Collateral. Pledgor shall notify the Lender of any change occurring in or to the Collateral, or in any fact or circumstances warranted or represented by Pledgor in this Security Agreement or furnished to Lender, or if any Event of Default (as hereinafter defined) occurs.
- (19) Pledgor will not allow the Collateral to be affixed to real estate, except goods identified herein as fixtures.
- (20) All extended or renewed note(s) (including the Note) will be considered executed on the date of the original note(s) (including the Note).
- (21) Pledgor shall comply with all environmental laws and regulations applicable to the Collateral and the premises in which the Collateral is located, and shall notify Lender upon receipt of any notice or other information as to any environmental hazards or violation of such laws. Lender may inspect all premises in which the Collateral is located and the Collateral as to its and their compliance with environmental laws. Pledgor agrees to indemnify, defend and hold Lender harmless from and against any breach of the foregoing and all losses, costs, fines and damages, including court costs and attorney's fees, incurred by Lender to defend itself, or to protect or preserve the Collateral against environmental risks, hazards, fines, and other claims relating to the Collateral.
- (22) **Pledgor agrees that it will not, without Lender's prior written consent, until the Indebtedness is paid in full:**
  - (a) in one transaction or a series of related transactions, merge into or consolidate with any other entity, sell all or substantially all of its assets, or in any way jeopardize its existence as a corporation or other business entity;
  - (b) change the state of its incorporation, organization or registration;
  - (c) change its name;
  - (d) change the address and/or location of its Chief Executive Office (as defined in the Code); or
  - (e) file any instrument attempting to amend or terminate any Financing Statements, including without limitation a UCC-3 amendment or termination form.
- (23) Pledgor has the risk of loss of the Collateral.
- (24) Lender has no duty to collect any income accruing on the Collateral or to preserve any rights relating to the Collateral.

#### **B. Special Representations and Warranties.**

Pledgor represents, warrants and agrees that:

- (1) If the Collateral includes inventory:
  - (a) Pledgor will immediately notify Lender of the disposition of any inventory and at Pledgor's expense will either assign to Lender a first-priority security interest in any resulting account, chattel paper, or instrument, or deliver to Lender cash in the amount of the sales price. Pledgor will not sell, lease, or otherwise dispose of any Collateral except in the ordinary course of business without the prior written consent of Lender.
  - (b) Until the occurrence of an Event of Default Pledgor may, in the ordinary course of business, sell, lease or furnish under contract of service any of the inventory normally held by Pledgor for such purpose; provided, however, that such use of the Inventory shall not be inconsistent with any other provisions of this Security Agreement or with the terms or conditions of any policies of insurance thereon. A sale in the ordinary course of business does not include a transfer in partial or total satisfaction of a debt.
- (2) If the Collateral includes accounts:

- (a) Each account in the Collateral will represent the valid, legally enforceable obligation of third parties and will not be evidenced by any instrument or chattel paper.
  - (b) The office where Pledgor keeps its records concerning accounts, if any, is the address of Pledgor set forth on page 1 hereof.
- (3) If the Collateral includes instruments, chattel paper or documents:
- (a) By delivering a copy of this Security Agreement to the broker, seller, or other person in possession of Collateral that is chattel paper or document, Security Party will effectively notify that person of Lender's interest in the Collateral. Delivery of the copy of the Security Agreement will also constitute Pledgor's instruction to deliver to Lender certificates or other evidence of the Collateral as soon as it is available. Pledgor will immediately deliver to Lender all chattel paper and documents that are Collateral in Pledgor's possession. If that Collateral is hereafter acquired, Pledgor will deliver it to Lender immediately following acquisition and either endorse it to Lender's order or give Lender appropriate executed powers. If any instruments, chattel paper, money or monies, or documents are, at any time or times, included in the Collateral, whether as proceeds or otherwise, Pledgor will promptly deliver the same to Lender upon the receipt thereof by Pledgor, and in any event promptly upon demand therefor by Lender. If necessary, all Collateral will either be endorsed to Lender's order or accompanied by appropriate executed powers.
  - (b) By means satisfactory to Lender, Pledgor has perfected or will perfect a security interest in goods covered by chattel paper, if any, included in Collateral.
- (4) If the Collateral includes property covered by a Certificate of Title: If any certificate of title or similar document is, at any time and pursuant to the laws of any jurisdiction, issued or outstanding with respect to the Collateral or any part thereof, Pledgor will promptly advise Lender thereof, and Pledgor will promptly cause the interest of Lender to be properly noted thereon, and if any certificate of title or similar document is so issued or outstanding at the time this Security Agreement is executed by or on behalf of Pledgor, then Pledgor shall have caused the interest of Lender to have been properly noted at or before the time of such execution, and Pledgor will further promptly deliver to Lender any such certificate of title or similar document issued or outstanding at any time with respect to such Collateral.
- (5) To the extent the Collateral is covered by a lien entry form under applicable law, Pledgor authorizes the filing and/or submission of a lien entry form.
- (6) If the Collateral is or may become fixtures on real property described herein, this Security Agreement, upon being filed for record in the real property records of the county wherein such fixtures are situated, shall operate also as a financing statement filed as a fixture filing in accordance with the Code upon such of the Collateral which is or may become fixtures.
- (7) Pledgor has rights in or the power to transfer and assign the Collateral hereunder and its title to the Collateral is free of all adverse claims, liens, security interests and restrictions on transfer or pledge except as created by this Security Agreement.
- (8) All Collateral consisting of goods is located solely in the state and/or states previously designated and warranted by Pledgor to Lender.
- (9) Pledgor's:
- (a) chief executive office is located in the state previously designated and warranted by Pledgor to Lender;
  - (b) state of incorporation, organization or registration is the state previously designated and warranted by Pledgor to Lender; and
  - (c) exact legal name is as set forth on page 1 of this Security Agreement.

#### **SECTION VI: EVENTS OF DEFAULT.**

Pledgor shall be in default under this Security Agreement upon the happening of any of the following events or conditions (herein called an "Event of Default"):

- (1) Pledgor or Borrower fails to pay any of the indebtedness when the same shall become due and payable; or
- (2) Pledgor or Borrower (a) fails to perform any of their respective obligations under this Security Agreement or the other Loan Documents, or any other event of default or breach occurs under this Security Agreement or the other Loan Documents, or (b) to the extent allowed by law, and except as to loans for homestead, homestead equity, home equity lines of credit, and/or household or other consumer goods, fails to perform any of their respective obligations under any other promissory note, security agreement, loan agreement or other agreement between Lender and Pledgor or Borrower or any other event of default or breach occurs thereunder; or
- (3) Any (a) statement, representation or warranty made by Pledgor in this Security Agreement, the other Loan Documents, the control agreement (if applicable), or in any other agreement between Lender and Borrower or Pledgor, or (b) any information contained in any financial statement or other document delivered to Lender by or on behalf of Borrower or Pledgor, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statement, representation or warranty therein not misleading in light of the circumstances in which they were made, or
- (4) Pledgor.
  - (a) dies or becomes physically or mentally incapacitated; or
  - (b) in the case of a Pledgor who is not a natural person, dissolves, terminates or in any other way ceases to legally exist or has its entity powers or privileges suspended or revoked for any reason, or
  - (c) makes an assignment for the benefit of creditors, or enters into any composition, marshalling of assets or similar arrangement in respect of its creditors generally; or
  - (d) becomes insolvent or generally does not pay its debts as such debts become due, or
  - (e) conceals, removes, or permits to be concealed or removed, any part of Pledgor's property, with intent to hinder, delay or defraud its creditors or any of them, or makes or suffers a transfer of any of Pledgor's property which may be fraudulent under any bankruptcy, fraudulent conveyance or similar law, or makes any transfer of Pledgor's property to or for the benefit of a creditor at a time when other creditors similarly

situated have not been paid; or

- (5) A trustee, receiver, agent or custodian is appointed or authorized to take charge of any property of Pledgor for the purpose of enforcing a lien against such property or for the purpose of administering such property for the benefit of its creditors; or
- (6) An order (a) for relief as to Pledgor is granted under Title 11 of the United States Code or any similar law, or (b) declaring Pledgor to be incompetent is entered by any court; or
- (7) Pledgor files any pleading seeking, or authorizes or consents to, any appointment or order described in subsections (5) or (6) above, whether by formal action or by the admission of the material allegations of a pleading or otherwise; or
- (8) Application is made for or there is an enforcement of any lien, levy, seizure, garnishment or attachment of any property of the Pledgor for the purposes of collecting a lawful debt; or
- (9) Any action or proceeding seeking any appointment or order described in subsections (5) or (6) above is commenced without the authority or consent of Pledgor, and is not dismissed within thirty (30) days after its commencement; or
- (10) Pledgor shall become involved (whether as plaintiff or defendant) in any material litigation (including, without limitation, matrimonial litigation) or arbitral or regulatory proceedings that, if determined adversely to Pledgor, could materially and adversely affect Pledgor's financial position, or could affect Pledgor's ability to repay the Indebtedness, or could adversely affect the Collateral or any portion thereof or Lender's security interest therein; or
- (11) Pledgor, in Lender's opinion, has suffered a material change in financial condition which, in Lender's opinion, impairs the ability of Pledgor to repay the Indebtedness or to properly perform Pledgor's obligations under this Security Agreement or the other Loan Documents; or
- (12) Any of the events or conditions described in subsections (4) through (11) above happen to, by or with respect to Borrower (if Borrower and Pledgor are not the same)
- (13) Lender believes, as a result of any material change in condition whether or not described herein, that Lender will be adversely affected, that the Indebtedness is inadequately secured, or that the prospect of payment of any of the Indebtedness or performance of any of Pledgor's or Borrower's obligations under the Loan Documents is impaired.
- (14) To the extent allowed by law, and except as to loans for homestead, homestead equity, home equity lines of credit, and/or household or other consumer goods, as to each Pledgor and/or Borrower with regard to any other credit facility with any other lender, any monetary default and/or any non-monetary default occurs which results in acceleration of the Indebtedness by any such other lender; and each Pledgor agrees to notify Lender of any such default within fifteen (15) days after the occurrence of the default.
- (15) There occurs any loss, theft, substantial damage, destruction, sale (except as authorized in this Security Agreement) or encumbrance to or of any of the Collateral, or the making of any levy, seizure or attachment thereof or thereon.
- (16) The Collateral becomes, in the judgment of Lender, unsatisfactory or insufficient in character or value.
- (17) The occurrence of any environmentally hazardous spill, discharge or other similar event adversely affecting the Collateral or the premises in which the Collateral is located, whether such event occurs on such premises or on other premises.
- (18) Pledgor or Borrower, or any of them, or any guarantor of any portion of the Indebtedness, fails to timely deliver any and all financial statements, income tax returns, cash flow information, balance sheets, accounts receivable reports, or any other business, tax or financial information requested by Lender.

## **SECTION VII: LENDER'S RIGHTS AND REMEDIES.**

### **A. General.**

Lender may exercise the following rights and remedies either before or after an Event of Default:

- (1) Lender may take control of any proceeds of the Collateral.
- (2) Lender may release any Collateral in Lender's possession to any Pledgor, temporarily or otherwise.
- (3) Lender may take control of any funds generated by the Collateral, such as refunds from and proceeds of insurance, and reduce any part of the Indebtedness accordingly or permit Pledgor to use such funds to repair or replace damaged or destroyed Collateral covered by insurance.
- (4) Lender may require that Pledgor from time to time, in Lender's discretion, take any action and execute any instrument which Lender may deem necessary or advisable to accomplish the purposes of this Security Agreement including, without limitation, (a) ask, demand, collect, sue for, recover, compound, receive and give receipts for monies due and to become due under or in respect of any Collateral; (b) receive, endorse and collect any drafts or other instruments, documents and chattel paper in connection with the actions described in preceding clause (a); and (c) file any claims or take any action or institute any proceedings which Lender may deem necessary or desirable for collection of any of the Collateral or otherwise to enforce its rights with respect to any of the Collateral. The powers conferred on Lender hereunder are solely to protect its interest in the Collateral and shall not impose any duty upon Lender to exercise any such powers. Pledgor's appointment of Lender as Pledgor's agent is coupled with an interest and will survive any disability of Pledgor.



- (5) This Security Agreement, Lender's rights hereunder and/or the Indebtedness hereby secured may be assigned by Lender in whole or in part from time to time, and in any such case Lender shall be fully discharged from all responsibility with respect to the Collateral so assigned and the assignee shall be entitled to all of the rights, privileges and remedies granted in this Security Agreement to Lender to the extent the same are assigned, and Pledgor will assert no claim or defenses Pledgor may have against Lender against the assignee, except those granted in this Security Agreement. In addition, Pledgor waives and will not assert against the assignee any claims, defenses or set-offs which Pledgor could assert against Lender except defenses which cannot be waived.
- (6) Lender may enter upon Pledgor's premises at any reasonable time to inspect the Collateral and Pledgor's books and records pertaining to the Collateral, and Pledgor shall assist the Lender in making any such inspection.
- (7) Lender may notify the account debtors or obligors of any accounts, chattel paper, negotiable instruments or other evidence of indebtedness to Pledgor to pay Lender directly as proceeds of the Collateral. Lender may contact account debtors directly to verify information furnished by Pledgor.
- (8) Lender may require additional collateral or reject as unsatisfactory any property hereafter offered by Pledgor as additional collateral.
- (9) Lender may designate, from time to time, a certain percentage of the Collateral as the loan value and require Pledgor to maintain the Indebtedness at or below such percentage.
- (10) Lender may present for conversion to cash any instrument or investment security or a combination thereof. But Lender shall not have any duty to present for conversion any instrument of Collateral in its possession unless it shall have received from Pledgor detailed written instructions to that effect at a time reasonably far in advance of the final conversion date to make such conversion possible.
- (11) Lender has no obligation to attempt to satisfy the Indebtedness by collecting them from any other person liable for them and Lender may release, modify or waive any collateral provided by any other person to secure any of the Indebtedness, all without affecting Lender's rights against Pledgor. Pledgor waives any right it may have to require Lender to pursue any third person for any of the Indebtedness.
- (12) Lender may comply with any applicable state or federal law requirements in connection with a disposition of the Collateral and compliance will not be considered adversely to adversely affect the commercial reasonableness of any sale of the Collateral.
- (13) If Lender sells any of the Collateral upon credit, Pledgor will be credited only with payments actually made by the purchaser, received by Lender, and applied to the indebtedness of the Purchaser. In the event the purchaser fails to pay for the Collateral, Lender may resell the Collateral and Pledgor shall be credited with the proceeds of the sale.
- (14) Lender has no obligation to marshal any assets in favor of Pledgor, or against or in payment of:
  - (i) the Note,
  - (ii) any of the other Indebtedness, or
  - (iii) any other obligation owed to Lender by Pledgor or any other person.
- (15) This Security Agreement shall bind and shall inure to the benefit of the heirs, legatees, executors, administrators, successors and assigns of Lender and shall bind all persons who become bound as a Pledgor to this Security Agreement.
- (16) Lender does not consent to any assignment by Pledgor except as expressly provided in this Security Agreement.

The foregoing rights and powers of Lender will be in addition to, and not a limitation upon, any rights and powers of Lender given by law, elsewhere in this Security Agreement, or otherwise.

#### **B. Remedies in Event of Default**

During the existence of any Event of Default, or in the event Lender deems itself insecure in the payment of the Indebtedness, Lender may declare the unpaid principal and unpaid and accrued interest of the Indebtedness immediately due in whole or part, enforce the Indebtedness, and/or exercise any rights and remedies granted by the Code or by this Security Agreement, including the following:

- (1) require Pledgor to deliver to Lender all books and records relating to the Collateral;
- (2) require Pledgor to assemble the Collateral and make it available to Lender at a place reasonably convenient to both parties;
- (3) take possession of any of the Collateral and for this purpose enter any premises where it is located if this can be done without breach of the peace and in such event Lender will not be guilty of, and/or held liable for, trespass;
- (4) sell, lease, or otherwise dispose of any of the Collateral in accord with the rights, remedies, and duties of a Lender under Articles 2 and 9 of the Code after giving notice as required by those articles; unless the Collateral threatens to decline rapidly in value, is perishable, or would typically be sold on a recognized market, Lender will give Pledgor reasonable notice of any public sale of the Collateral or of a time after which it may be otherwise disposed of without further notice to Pledgor; and in this event notice will be deemed reasonable if it is mailed, postage prepaid, to Pledgor at the address for Pledgor set forth on page 1 of this Security Agreement at least ten days before any public sale or ten days before the time when the Collateral may be sold by private sale or otherwise disposed of without further notice to Pledgor. Pledgor authorizes

Lender to disclaim or modify any and all warranties set forth in the Code and stipulates and agrees that such a disclaimer and/or modification will not render any sale of the Collateral or any portion thereof by Lender commercially unreasonable.

- (5) surrender any insurance policies covering the Collateral and receive the unearned premium;
- (6) apply any proceeds from disposition of the Collateral after an Event of Default in the manner specified in the Code, including payment of Lender's reasonable attorney's fees and court expenses;
- (7) if disposition of the Collateral leaves any portion of the Indebtedness unsatisfied, collect the deficiency from all liable parties. Expenses of retaking, holding, preparing for sale, selling or the like shall include Lender's reasonable attorney's fees and legal costs and/or expenses, and Pledgor agrees to pay on demand by Lender such costs, expenses, and fees, plus interest thereon at the maximum rate allowed by applicable law;
- (8) To the extent allowed by law, Lender may retain all or part of the Collateral in full and/or partial satisfaction of the Indebtedness pursuant to the Code;
- (9) Lender may, without demand or notice of any kind, appropriate and apply toward the payment of any portion of the Indebtedness then owing to Lender and in such order of application as the Lender may from time to time elect, any property, balances, credits, deposits, accounts or monies of Pledgor which for any purpose is in the possession or control of the Lender or any member Bank, branch Bank or other depository institution of International Bancshares Corporation; and/or
- (10) Lender may remedy any Event of Default without waiving the Event of Default remedied and may waive any Event of Default without waiving any other prior or subsequent Event of Default.

#### SECTION VIII: ADDITIONAL AGREEMENTS.

- (1) A copy of this Security Agreement or any Financing Statements covering the Collateral are sufficient and may be filed as a Financing Statement. Information concerning this security interest may be obtained at the office of Lender set out on page 1 hereof.
- (2) This Security Agreement may only be modified or limited by an agreement in writing signed by all parties hereto.
- (3) The security interest hereby created shall neither affect nor be affected by any other security for any of the Indebtedness. Neither extensions nor increases of any of the Indebtedness nor releases of any of the Collateral shall affect the validity of the security interest hereby created with reference to Pledgor or any third party. Pledgor specifically waives all suretyship type defenses. Additionally, foreclosure of the security interest hereby created by lawsuit does not limit Lender's remedies, including the right to sell the Collateral under the terms of this Security Agreement. Lender shall have the right to exercise all remedies at the same or different times and no remedy shall be a defense to any other. Lender shall have all rights and remedies granted by law or otherwise in addition to those provided in this Security Agreement.
- (4) Lender may remedy any Event of Default without waiving it. No delay by Lender in exercising its rights or partially exercising its rights or remedies shall waive further exercise of those remedies or rights. The failure of Lender to exercise any remedies or rights does not waive subsequent exercise of those remedies or rights. Any waiver by Lender of any Event of Default shall not waive any further Event of Default. Lender may remedy any Event of Default without waiving it. Lender's waiver of any right in this Security Agreement or any Event of Default is binding only if in writing.
- (5) Pledgor and Lender intend that the Indebtedness shall be in strict compliance with applicable usury laws. If at any time interest contracted for, charged or received under any Indebtedness secured by this Security Agreement or otherwise in connection with this transaction would be usurious under applicable law, then regardless of the provisions of this Security Agreement or any other documents or instruments evidencing, securing or otherwise executed in connection with any Indebtedness secured by this Security Agreement, or any action or event (including, without limitation, prepayment of principal of any Indebtedness or acceleration of maturity of any Indebtedness by Lender) which may occur with respect to any of the Indebtedness, it is agreed that all sums determined to be usurious shall be immediately credited by Lender to Pledgor or Borrower, as the case may be, as a payment of principal under the Indebtedness or if the Indebtedness has already been paid, immediately refunded to Pledgor or Borrower, as the case may be. All compensation which constitutes interest under applicable law in connection with any Indebtedness secured by this Security Agreement shall be amortized, prorated, allocated, and spread over the full period of time any of the Indebtedness is owed by Pledgor or Borrower, as the case may be, to the greatest extent permissible without exceeding the applicable maximum rate allowed by applicable law in effect from time to time during such period.
- (6) Lender may perform any obligation which Pledgor fails to perform and Pledgor agrees on demand to reimburse Lender immediately for any sums so paid by Lender, including attorneys' fees and other legal expenses, plus interest on those sums from the dates of payment at the rate stated in the Note for matured, unpaid amounts. Any sum to be reimbursed shall constitute Indebtedness and be secured by this Security Agreement. [See Section V, A. (9) for insurance reimbursements].
- (7) This Security Agreement is being executed and delivered and is intended to be performed in the State where Lender is located and shall be construed and enforced in accordance with the laws of such State, except to the extent that the Code provides for the application of the law of a different state. When the context requires, singular nouns and pronouns include the plural. The rights of Lender under this Security Agreement shall inure to the benefit of its successors and assigns. Any assignment of part of the Indebtedness and delivery by Lender of any part of the Collateral will fully discharge Lender from any and all responsibility for that portion of the Collateral.

Pledgor's Indebtedness under this Security Agreement shall bind Pledgor's personal representatives, successors and assigns. If Pledgor is more than one person or entity, all their representations, warranties and

agreements are joint and several. If any part of this Security Agreement is unenforceable, the unenforceability of such provision will not affect the enforceability of any other provision hereof and all other provisions will constitute valid provisions.

- (8) For purposes of this Security Agreement, Lender's location is the address of Lender set forth on page 1 hereof.

**SECTION IX: ARBITRATION – LENDER AND PLEDGOR FURTHER AGREE AS FOLLOWS:**

- I. PROVISIONS APPLICABLE TO CONSUMER-RELATED CLAIMS OF \$75,000.00 OR LESS IN ACTUAL DAMAGES:**
- (a) WITH REGARD TO ALL CONSUMER-RELATED CLAIMS OF \$75,000.00 OR LESS IN ACTUAL DAMAGES, ANY AND ALL CONTROVERSIES OR CLAIMS ARISING OUT OF THIS AGREEMENT, ITS NEGOTIATION AND/OR THE BREACH THEREOF, SHALL BE SETTLED BY ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION UNDER ITS SUPPLEMENTAL PROCEDURES FOR RESOLUTION OF CONSUMER-RELATED DISPUTES AND CONSUMER DUE PROCESS PROTOCOL (WHICH ARE INCORPORATED HEREIN FOR ALL PURPOSES), AND JUDGMENT ON THE AWARD RENDERED BY THE ARBITRATOR(S) MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF. IT IS INTENDED BY ALL PARTIES THAT THIS ARBITRATION CLAUSE MEET AND INCLUDE ALL FAIRNESS STANDARDS AND PRINCIPLES OF THE AMERICAN ARBITRATION ASSOCIATION'S CONSUMER DUE PROCESS PROTOCOL AND DUE PROCESS IN PREDISPUTE ARBITRATION.
  - (b) INSTEAD OF PROCEEDING IN ARBITRATION, ANY PARTY HERETO MAY PURSUE ITS CLAIM IN THE CONSUMER'S LOCAL SMALL CLAIMS COURT, IF THE CONSUMER-RELATED CLAIM IS WITHIN THE SMALL CLAIMS COURT'S JURISDICTIONAL LIMITS. IF THE SMALL CLAIMS COURT OPTION IS CHOSEN, THE PARTY MUST CONTACT THE SMALL CLAIMS COURT DIRECTLY.
  - (c) THE PARTIES FURTHER AGREE THAT (i) NO ARBITRATION PROCEEDING HEREUNDER SHALL BE CERTIFIED AS A CLASS ACTION OR PROCEED AS A CLASS ACTION, OR ON A BASIS INVOLVING CLAIMS BROUGHT IN A PURPORTED REPRESENTATIVE CAPACITY ON BEHALF OF THE GENERAL PUBLIC, OTHER CUSTOMERS OF LENDER OR POTENTIAL CUSTOMERS OR PERSONS SIMILARLY SITUATED AND (ii) NO ARBITRATION PROCEEDING HEREUNDER SHALL BE CONSOLIDATED WITH, OR JOINED IN ANY WAY WITH, ANY OTHER ARBITRATION PROCEEDING.
  - (d) THIS ARBITRATION PROVISION SHALL SURVIVE ANY TERMINATION, AMENDMENT, OR EXPIRATION OF THE AGREEMENT IN WHICH THIS PROVISION IS CONTAINED, UNLESS ALL OF THE PARTIES OTHERWISE EXPRESSLY AGREE IN WRITING.
  - (e) THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT EVIDENCES A TRANSACTION INVOLVING INTERSTATE COMMERCE. THE FEDERAL ARBITRATION ACT SHALL GOVERN THE INTERPRETATION, ENFORCEMENT, AND PROCEEDINGS PURSUANT TO THE ARBITRATION CLAUSE OF THIS AGREEMENT.
- II. ADDITIONAL PROVISIONS APPLICABLE TO CONSUMER-RELATED CLAIMS OF MORE THAN \$75,000.00 IN ACTUAL DAMAGES AND TO ALL COMMERCIAL CLAIMS:**
- (a) ANY ARBITRATION INVOLVING CONSUMER-RELATED CLAIMS OF MORE THAN \$75,000.00 IN ACTUAL DAMAGES AND ALL COMMERCIAL CLAIMS HEREUNDER SHALL BE BEFORE AT LEAST THREE NEUTRAL ARBITRATORS ASSOCIATED WITH THE AMERICAN ARBITRATION ASSOCIATION AND SELECTED IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION. FAILURE OF ANY ARBITRATOR TO DISCLOSE ALL FACTS WHICH MIGHT TO AN OBJECTIVE OBSERVER CREATE A REASONABLE IMPRESSION OF THE ARBITRATOR'S PARTIALITY, AND/OR MATERIAL ERRORS OF LAW, SHALL BE GROUNDS [IN ADDITION TO ALL OTHERS] FOR VACATUR OF AN AWARD RENDERED PURSUANT TO THIS AGREEMENT.
  - (b) THE PARTIES FURTHER AGREE THAT (i) NO ARBITRATION PROCEEDING HEREUNDER SHALL BE CERTIFIED AS A CLASS ACTION OR PROCEED AS A CLASS ACTION, OR ON A BASIS INVOLVING CLAIMS BROUGHT IN A PURPORTED REPRESENTATIVE CAPACITY ON BEHALF OF THE GENERAL PUBLIC, OTHER CUSTOMERS OR POTENTIAL CUSTOMERS OF LENDER OR PERSONS SIMILARLY SITUATED AND (ii) NO ARBITRATION PROCEEDING HEREUNDER SHALL BE CONSOLIDATED WITH, OR JOINED IN ANY WAY WITH, ANY OTHER ARBITRATION PROCEEDING.
  - (c) THIS ARBITRATION PROVISION SHALL SURVIVE ANY TERMINATION, AMENDMENT, OR EXPIRATION OF THE AGREEMENT IN WHICH THIS PROVISION IS CONTAINED, UNLESS ALL OF THE PARTIES OTHERWISE EXPRESSLY AGREE IN WRITING.
  - (d) THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT EVIDENCES A TRANSACTION INVOLVING INTERSTATE COMMERCE. THE FEDERAL ARBITRATION ACT SHALL GOVERN THE INTERPRETATION, ENFORCEMENT, AND PROCEEDINGS PURSUANT TO THE ARBITRATION CLAUSE OF THIS AGREEMENT.
- III. ADDITIONAL PROVISIONS APPLICABLE TO ALL COMMERCIAL CLAIMS:**
- (a) ANY AND ALL COMMERCIAL CONTROVERSIES BETWEEN THE PARTIES SHALL BE RESOLVED BY ARBITRATION IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION IN EFFECT AT THE TIME OF FILING, UNLESS THE COMMERCIAL ARBITRATION RULES CONFLICT WITH THIS PROVISION, AND IN SUCH EVENT THE TERMS OF THIS PROVISION SHALL CONTROL TO THE EXTENT OF THE CONFLICT.
  - (b) THE AWARD OF THE ARBITRATORS, OR A MAJORITY OF THEM, SHALL BE FINAL, AND JUDGMENT UPON THE AWARD RENDERED MAY BE ENTERED IN ANY COURT, STATE OR FEDERAL, HAVING JURISDICTION. THE ARBITRATION AWARD SHALL BE IN WRITING AND SPECIFY THE FACTUAL AND LEGAL BASIS FOR THE AWARD. UPON THE REQUEST OF ANY PARTY, THE AWARD SHALL INCLUDE FINDINGS OF FACT

**AND CONCLUSIONS OF LAW.**

- (c) **ARBITRABLE DISPUTES INCLUDE ANY AND ALL CONTROVERSIES OR CLAIMS BETWEEN THE PARTIES OF WHATEVER TYPE OR MANNER, INCLUDING WITHOUT LIMITATION, ANY CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, ALL PAST, PRESENT AND/OR FUTURE CREDIT FACILITIES AND/OR AGREEMENTS INVOLVING THE PARTIES, ANY TRANSACTIONS BETWEEN OR INVOLVING THE PARTIES, AND/OR ANY ASPECT OF ANY PAST OR PRESENT RELATIONSHIP OF THE PARTIES, WHETHER BANKING OR OTHERWISE, SPECIFICALLY INCLUDING ANY ALLEGED TORT COMMITTED BY ANY PARTY.**
- (d) **THE PARTIES SHALL ALLOW AND PARTICIPATE IN DISCOVERY IN ACCORDANCE WITH THE FEDERAL RULES OF CIVIL PROCEDURE FOR A PERIOD OF ONE HUNDRED TWENTY (120) DAYS AFTER THE FILING OF THE ORIGINAL RESPONSIVE PLEADING. DISCOVERY MAY CONTINUE THEREAFTER AS AGREED BY THE PARTIES OR AS ALLOWED BY THE ARBITRATORS. UNRESOLVED DISCOVERY DISPUTES SHALL BE BROUGHT TO THE ATTENTION OF THE ARBITRATORS BY WRITTEN MOTION FOR PROPER DISPOSITION, INCLUDING RULING ON ANY ASSERTED OBJECTIONS, PRIVILEGES, AND PROTECTIVE ORDER REQUESTS AND AWARDING REASONABLE ATTORNEY'S FEES TO THE PREVAILING PARTY.**
- (e) **IN THE EVENT THE AGGREGATE OF ALL AFFIRMATIVE CLAIMS ASSERTED EXCEED \$500,000.00, EXCLUSIVE OF INTEREST AND ATTORNEY'S FEES, OR UPON THE WRITTEN REQUEST OF ANY PARTY, (1) PRIOR TO THE DISSEMINATION OF A LIST OF POTENTIAL ARBITRATORS, THE AMERICAN ARBITRATION ASSOCIATION SHALL CONDUCT AN IN PERSON ADMINISTRATIVE CONFERENCE WITH THE PARTIES AND THEIR ATTORNEYS FOR THE FOLLOWING PURPOSES AND FOR SUCH ADDITIONAL PURPOSES AS THE PARTIES OR THE AMERICAN ARBITRATION ASSOCIATION MAY DEEM APPROPRIATE: (A) TO OBTAIN ADDITIONAL INFORMATION ABOUT THE NATURE AND MAGNITUDE OF THE DISPUTE AND THE ANTICIPATED LENGTH OF HEARINGS AND SCHEDULING; (B) TO DISCUSS THE VIEW OF THE PARTIES ABOUT ANY TECHNICAL AND/OR OTHER SPECIAL QUALIFICATIONS OF THE ARBITRATORS; AND (C) TO CONSIDER WHETHER MEDIATION OR OTHER METHODS OF DISPUTE RESOLUTION MIGHT BE APPROPRIATE, AND (2) AS PROMPTLY AS PRACTICABLE AFTER THE SELECTION OF THE ARBITRATORS, A PRELIMINARY HEARING SHALL BE HELD AMONG THE PARTIES, THEIR ATTORNEYS AND THE ARBITRATORS. WITH THE AGREEMENT OF THE ARBITRATORS AND THE PARTIES, THE PRELIMINARY HEARING MAY BE CONDUCTED BY TELEPHONE CONFERENCE CALL RATHER THAN IN PERSON. AT THE PRELIMINARY HEARING THE MATTERS THAT MAY BE CONSIDERED SHALL INCLUDE, WITHOUT LIMITATION, A PREHEARING SCHEDULING ORDER ADDRESSING (A) EACH PARTY'S DUTY TO SUBMIT A DETAILED STATEMENT OF CLAIMS, DAMAGES AND/OR DEFENSES, AND A STATEMENT OF THE ISSUES ASSERTED BY EACH PARTY AND ANY LEGAL AUTHORITIES THE PARTIES MAY WISH TO BRING TO THE ATTENTION OF THE ARBITRATORS; (B) RESPONSES AND/OR REPLIES TO THE STATEMENTS FILED IN COMPLIANCE WITH SUBPART 2(A) OF THIS SUBSECTION; (C) STIPULATIONS REGARDING ANY UNCONTESTED FACTS; (D) EXCHANGE AND PREMARKING OF ALL DOCUMENTS WHICH EACH PARTY BELIEVES MAY BE OFFERED AT THE FINAL ARBITRATION HEARING; (E) THE IDENTIFICATION AND AVAILABILITY OF WITNESSES, INCLUDING EXPERTS, AND SUCH ADDITIONAL MATTERS REGARDING WITNESSES INCLUDING THEIR BIOGRAPHIES AND A SHORT SUMMARY OF THEIR EXPECTED TESTIMONY, (F) WHETHER A STENOGRAPHIC OR OTHER OFFICIAL RECORD OF THE PROCEEDINGS SHALL BE MAINTAINED; AND (G) THE POSSIBILITY OF UTILIZING MEDIATION OR OTHER ALTERNATIVE METHODS OF DISPUTE RESOLUTION.**
- (f) **FOR PURPOSES OF THIS PROVISION, "THE PARTIES" MEANS PLEDGOR AND LENDER, AND EACH AND ALL PERSONS AND ENTITIES SIGNING THIS AGREEMENT OR ANY OTHER AGREEMENTS BETWEEN OR AMONG ANY OF THE PARTIES AS PART OF THE TRANSACTION EVIDENCED BY THIS AGREEMENT. "THE PARTIES" SHALL ALSO INCLUDE INDIVIDUAL PARTNERS, AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND/OR REPRESENTATIVES OF ANY PARTY TO SUCH DOCUMENTS, AND SHALL INCLUDE ANY OTHER OWNER AND HOLDER OR ASSIGNEE OF THIS AGREEMENT.**
- (g) **THE PARTIES SHALL HAVE THE RIGHT TO INVOKE SELF-HELP REMEDIES (SUCH AS SET-OFF, NOTIFICATION OF ACCOUNT DEBTORS, SEIZURE AND/OR FORECLOSURE OF COLLATERAL, AND NON-JUDICIAL SALE OF PERSONAL PROPERTY AND REAL PROPERTY COLLATERAL) BEFORE, DURING OR AFTER ANY ARBITRATION, AND/OR REQUEST ANCILLARY OR PROVISIONAL JUDICIAL REMEDIES (SUCH AS GARNISHMENT, ATTACHMENT, SPECIFIC PERFORMANCE, RECEIVER, INJUNCTION OR RESTRAINING ORDER, AND SEQUESTRATION) BEFORE OR AFTER ANY ARBITRATION. THE PARTIES NEED NOT AWAIT THE OUTCOME OF THE ARBITRATION BEFORE USING SELF-HELP REMEDIES. USE OF SELF-HELP OR ANCILLARY AND/OR PROVISIONAL JUDICIAL REMEDIES SHALL NOT OPERATE AS A WAIVER OF EITHER PARTY'S RIGHT TO COMPEL ARBITRATION. ANY ANCILLARY OR PROVISIONAL REMEDY WHICH WOULD BE AVAILABLE FROM A COURT AT LAW SHALL BE AVAILABLE FROM THE ARBITRATORS.**
- (h) **THE PARTIES AGREE THAT ANY ACTION REGARDING ANY CONTROVERSY BETWEEN THE PARTIES SHALL EITHER BE BROUGHT BY ARBITRATION, AS DESCRIBED HEREIN, OR BY JUDICIAL PROCEEDINGS, BUT SHALL NOT BE PURSUED SIMULTANEOUSLY IN DIFFERENT OR ALTERNATIVE FORMS. A TIMELY WRITTEN NOTICE OF INTENT TO ARBITRATE PURSUANT TO THIS AGREEMENT STAYS AND/OR ABATES ANY AND ALL ACTION IN A TRIAL COURT, SAVE AND EXCEPT A HEARING ON A MOTION TO COMPEL ARBITRATION AND/OR THE ENTRY OF AN ORDER COMPELLING ARBITRATION AND STAYING AND/OR ABATING THE LITIGATION PENDING THE FILING OF THE FINAL AWARD OF THE ARBITRATORS. ALL REASONABLE AND NECESSARY ATTORNEY'S FEES AND ALL TRAVEL COSTS SHALL BE AWARDED TO THE PREVAILING PARTY ON ANY MOTION TO COMPEL ARBITRATION AND MUST BE PAID TO SUCH PARTY WITHIN TEN (10) DAYS OF THE SIGNING OF THE ORDER COMPELLING ARBITRATION.**
- (i) **ANY PARTY SEEKING TO ARBITRATE SHALL SERVE A WRITTEN NOTICE OF INTENT TO ARBITRATE TO ANY AND ALL OPPOSING PARTIES WITHIN 360 DAYS AFTER A DISPUTE HAS ARISEN. A DISPUTE IS DEFINED TO HAVE ARISEN ONLY UPON RECEIPT OF SERVICE OF JUDICIAL PROCESS, INCLUDING SERVICE OF A COUNTERCLAIM. FAILURE TO SERVE A WRITTEN NOTICE OF INTENT TO ARBITRATE WITHIN THE TIME SPECIFIED ABOVE SHALL BE DEEMED A WAIVER OF THE AGGRIEVED PARTY'S RIGHT TO COMPEL ARBITRATION OF SUCH CLAIM. THE ISSUE OF WAIVER PURSUANT TO THIS AGREEMENT IS AN ARBITRABLE DISPUTE.**
- (j) **ACTIVE PARTICIPATION IN PENDING LITIGATION DURING THE 360 DAY NOTICE PERIOD, WHETHER AS**

PLAINTIFF OR DEFENDANT, IS NOT A WAIVER OF THE RIGHT TO COMPEL ARBITRATION. ALL DISCOVERY OBTAINED IN THE PENDING LITIGATION MAY BE USED IN ANY SUBSEQUENT ARBITRATION PROCEEDING.

- (k) ANY ARBITRATOR SELECTED SHALL BE KNOWLEDGEABLE IN THE SUBJECT MATTER OF THE DISPUTE. EACH OF THE PARTIES SHALL PAY AN EQUAL SHARE OF THE ARBITRATION COSTS, FEES, EXPENSES, AND OF THE ARBITRATORS' FEES, COSTS AND EXPENSES.
- (l) ALL STATUTES OF LIMITATIONS WHICH WOULD OTHERWISE BE APPLICABLE SHALL APPLY TO ANY AND ALL CLAIMS ASSERTED IN ANY ARBITRATION PROCEEDING HEREUNDER, AND THE COMMENCEMENT OF ANY ARBITRATION PROCEEDING TOLLS SUCH STATUTES OF LIMITATIONS.
- (m) IN ANY ARBITRATION PROCEEDING SUBJECT TO THIS PROVISION, THE ARBITRATORS, OR MAJORITY OF THEM, ARE SPECIFICALLY EMPOWERED TO DECIDE (BY DOCUMENTS ONLY, OR WITH A HEARING, AT THE ARBITRATORS' SOLE DISCRETION) PRE-HEARING MOTIONS WHICH ARE SUBSTANTIALLY SIMILAR TO PRE-HEARING MOTIONS TO DISMISS AND MOTIONS FOR SUMMARY ADJUDICATION.
- (n) THE ARBITRATORS, OR A MAJORITY OF THEM, SHALL AWARD ATTORNEY'S FEES AND COSTS TO THE PREVAILING PARTY PURSUANT TO THE TERMS OF THIS AGREEMENT.
- (o) NEITHER THE PARTIES NOR THE ARBITRATORS MAY DISCLOSE THE EXISTENCE, CONTENT, OR RESULTS OF ANY ARBITRATION HEREUNDER WITHOUT PRIOR WRITTEN CONSENT OF ALL PARTIES AND/OR COURT ORDER.
- (p) VENUE OF ANY ARBITRATION PROCEEDING HEREUNDER SHALL BE IN THE COUNTY AND STATE WHERE LENDER IS LOCATED AS SET FORTH IN THE FIRST PARAGRAPH ON PAGE 1 HEREOF.

#### SECTION X. Miscellaneous.

- (a) **Security Interest Absolute.** All rights of the Lender and the security interests created hereunder shall be absolute and unconditional irrespective of.
  - (i) any change in the time, manner, amount or place of payment of, or in any other term of, all or any of the Indebtedness, or any other amendment or waiver of or any consent to any departure from the Note or any other Loan Document;
  - (ii) any exchange or release or nonperfection of all or any part of the Collateral or any other collateral, or any release from, amendment to, waiver of or consent to departure from any guaranty for all or any of the Indebtedness; or
  - (iii) to the fullest extent permitted by law, any other circumstances which might otherwise constitute a defense available to or a discharge of the Pledgor or Borrower or a third party pledgor.
- (b) **Indemnification.** The Pledgor agrees to indemnify and defend the Lender and hold the Lender harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind of nature whatsoever which may be imposed on, incurred by, or asserted against the Lender in any way relating to or in any way arising out of or in connection with this Security Agreement, the Loan Documents or the transactions contemplated hereby or thereby other than those arising out of the Lender's breach, default, negligence or willful misconduct in its obligations under this Security Agreement or the Loan Documents. Without limitation of the foregoing, the Pledgor will reimburse the Lender for all expenses (including expenses for legal services of every kind) of, or incidental to, the negotiation of, entering into and enforcement of any of the provisions hereof and of the Indebtedness, and any actual or attempted sale, lease or other disposition of, and any exchange, enforcement, collection, compromise or settlement of any of the Collateral and defending or asserting the rights and claims of the Lender in respect thereof, and for the care of the Collateral and defending or asserting the rights and claims of the Lender in respect thereof, by litigation or otherwise, including expense of insurance, and all such expenses shall constitute a part of the Indebtedness.  
See Insert No. 2 on attached Addendum.
- (c) This Agreement will be governed by, construed and enforced in accordance with federal law and the laws of the State where Lender is located. This Agreement has been accepted by Lender in the State where Lender is located.
- (d) The parties intend to conform strictly to the applicable federal, state, and local laws as now or hereafter construed by the courts having jurisdiction. All agreements between the parties hereto (or any other party liable with respect to any indebtedness under the Loan Documents) are hereby limited by the provisions of this paragraph which shall override and control all such agreements, whether now existing or hereafter arising and whether written or oral. If from a construction of any document related to any agreement between the parties hereto (or any other party liable with respect to any Indebtedness), any term(s) or provision(s) of the document is in conflict with, or in violation of, applicable laws, any such construction shall be subject to the provisions of this subsection and such document shall be automatically reformed as to comply with applicable law, without the necessity of execution of any amendment or new document.
- (e) Attorney's fees and costs of collection, once liquidated, paid by Lender and/or otherwise allowed by law, will bear interest from the dates of such payments until paid (i) at the rate of interest applied to the matured and past due principal balance of the Note, as such rate may change from time to time, or (ii) if the Note is not described in Section III hereof, at the maximum lawful rate.
- (f) To the extent allowed by law, any and all collateral owned by Pledgor securing other indebtedness of Pledgor and/or Borrower to Lender and all of Pledgor's accounts with Lender and/or any member bank of the International BancShares Corporation, excluding however, all IRA and KEOGH and trust accounts upon which the grant of a security interest would be prohibited, and any and all repurchase agreements or other non-deposit obligations, also secure the Indebtedness.
- (g) This Security Agreement constitutes written notice of a security interest if required by applicable law.
- (h) PLEDGOR HAS READ AND UNDERSTOOD ALL OF THE PROVISIONS OF THIS SECURITY AGREEMENT AND HAS AGREED TO ITS TERMS.

#### SECTION XI: NO ORAL AGREEMENTS

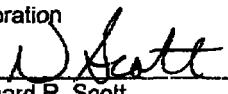
**THIS WRITTEN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENT OF THE PARTIES.**

**THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

Dated: August 12, 2008

**PLEDGOR(S):**

Trans-Global Solutions, Inc.  
A Texas Corporation

By:   
Name: Richard R. Scott  
Title: President

Address: 11811 East Freeway Ste 630  
Houston, Texas 77029

**SECURED PARTY:**

~~International Bank of Commerce~~

By:   
Name: Craig A. Bunk  
Title: Senior Vice President

## **EXHIBIT "A"**

Five (5) used EMD SW1200 Switcher Locomotives with the following markings and unit numbers:

PHL 32  
PHL 35  
PHL 36  
PHL 37  
PHL 38

## ADDENDUM TO SECURITY AGREEMENT

THIS ADDENDUM TO SECURITY AGREEMENT (the "*Addendum*") is executed contemporaneously with the attached Security Agreement (the "*Security Agreement*") dated as of August 12, 2008, executed by Trans-Global Solutions, Inc., a Texas corporation ("*Debtor*"), in favor of International Bank of Commerce, a Texas banking association ("*Secured Party*"), securing certain indebtedness of Debtor under that certain Promissory Note dated as of even date herewith payable to the order of Secured Party in the original principal amount of \$700,000.00. To the extent of any conflict or variance between this Addendum and the Security Agreement, this Addendum shall control.

### AGREEMENT

Inserts. The following inserts supplement the Security Agreement and are hereby incorporated into the Security Agreement where indicated on the Security Agreement:

INSERT 1: In addition to the foregoing collateral, Debtor hereby GRANTS, TRANSFERS and collaterally ASSIGNS to Secured Party Debtor's rights, title and interest in and to the leases (collectively, the "*Leases*") owned by Debtor covering the locomotives described Exhibit "A" attached to the Security Agreement (the "*Subject Locomotives*"), including without limitation, leases of the Subject Locomotives to one or more parties from time to time.

Notwithstanding the foregoing to the contrary, the collateral covered by this Security Agreement is limited to the categories of collateral listed in this Security Agreement solely with respect to, or arising out of or from, the locomotives listed on attached Exhibit "A".

INSERT 2: Special Provisions for Assignment of Leases. Debtor warrants that the Debtor is the owner of the Leases; that the Leases are valid and enforceable and have not been altered, modified or amended in any manner whatsoever, save as herein set forth; and that Debtor's interests under the Leases are assignable pursuant to the terms hereof. Debtor covenants and agrees with Secured Party to observe and perform all the obligations imposed upon Debtor under the Leases and not to do or permit to be done anything to impair the security thereof; not to execute any other assignment of Debtor's interest in the Leases; and without written notice to Secured Party not to alter, modify or change the terms of said Leases.

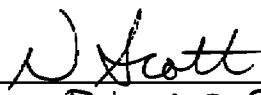
Upon an Event of Default, all sums received by Debtor pursuant to the Leases shall be applied to any sums due under the Indebtedness, applied in the manner Secured Party shall determine in its discretion, whether such sums are received prior to, upon, or after the maturity of the Indebtedness. Secured Party shall not be liable for any loss sustained by Debtor resulting from the Secured Party's failure to enforce the Leases. Nor shall Secured Party be obligated to perform or discharge nor does Secured Party hereby undertake to perform or discharge any obligation, duty or liability under said Leases or under or by reason of this Agreement.



EXECUTED as of the date of the Security Agreement.

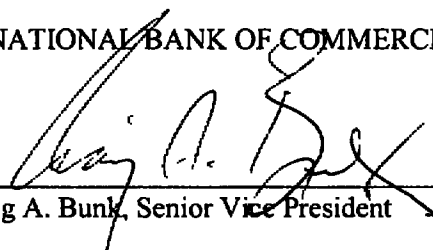
**DEBTOR:**

TRANS-GLOBAL SOLUTIONS, INC., a Texas corporation

By:   
Name: RICHARD R. SCOTT  
Title: PRESIDENT

**SECURED PARTY:**

INTERNATIONAL BANK OF COMMERCE,

By:   
Craig A. Bunk, Senior Vice President